

COUNT THIRTEEN

INVALIDITY OF THE '712 PATENT

110. Plaintiffs repeat and reallege the allegations in paragraphs 1-109 as though fully set forth herein.

111. The '712 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

112. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '712 Patent.

COUNT FOURTEEN

UNENFORCEABILITY OF THE '712 PATENT

113. Plaintiffs repeat and reallege the allegations in paragraphs 1-112 as though fully set forth herein.

114. The '712 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

115. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '712 Patent.

COUNT FIFTEEN

NON-INFRINGEMENT OF THE '731 PATENT

116. Plaintiffs repeat and reallege the allegations in paragraphs 1-115 as though fully set forth herein.

FIRST AMENDED COMPLAINT FOR ANTITRUST LAW VIOLATIONS,
PATENT INFRINGEMENT, AND FOR DECLARATORY RELIEF

117. Plaintiffs have not infringed, and are not infringing, the '731 Patent. A true and correct copy of the '731 Patent is attached hereto as Exhibit "I".

118. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '731 Patent by any third party.

119. Plaintiffs are licensed to the '731 Patent.

120. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '731 Patent.

COUNT SIXTEEN

INVALIDITY OF THE '731 PATENT

121. Plaintiffs repeat and reallege the allegations in paragraphs 1-120 as though fully set forth herein.

122. The '731 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

123. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '731 Patent.

COUNT SEVENTEEN

UNENFORCEABILITY OF THE '731 PATENT

124. Plaintiffs repeat and reallege the allegations in paragraphs 1-123 as though fully set forth herein.

125. The '731 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

126. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '731 Patent.

COUNT EIGHTEEN

NON-INFRINGEMENT OF THE '689 PATENT

127. Plaintiffs repeat and reallege the allegations in paragraphs 1-126 as though fully set forth herein.

128. Plaintiffs have not infringed, and are not infringing, the '689 Patent. A true and correct copy of the '689 Patent is attached hereto as Exhibit "J".

129. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '689 Patent by any third party.

130. Plaintiffs are licensed to the '689 Patent.

131. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '689 Patent.

COUNT NINETEEN

INVALIDITY OF THE '689 PATENT

132. Plaintiffs repeat and reallege the allegations in paragraphs 1-131 as though fully set forth herein.

133. The '689 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

134. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '689 Patent.

COUNT TWENTY

UNENFORCEABILITY OF THE '689 PATENT

135. Plaintiffs repeat and reallege the allegations in paragraphs 1-134 as though fully set forth herein.

136. The '689 Patent is unenforceable because it expired in 2004.

137. The '689 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

138. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '689 Patent.

COUNT TWENTY-ONE

NON-INFRINGEMENT OF THE '070 PATENT

139. Plaintiffs repeat and reallege the allegations in paragraphs 1-138 as though fully set forth herein.

140. Plaintiffs have not infringed, and are not infringing, the '070 Patent. A true and correct copy of the '070 Patent is attached hereto as Exhibit "K".

141. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '070 Patent by any third party.

142. Plaintiffs are licensed to the '070 Patent.

143. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '070 Patent.

COUNT TWENTY-TWO

INVALIDITY OF THE '070 PATENT

144. Plaintiffs repeat and reallege the allegations in paragraphs 1-143 as though fully set forth herein.

145. The '070 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

146. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '070 Patent.

COUNT TWENTY-THREE

UNENFORCEABILITY OF THE '070 PATENT

147. Plaintiffs repeat and reallege the allegations in paragraphs 1-146 as though fully set forth herein.

148. The '070 Patent is unenforceable because it expired in 2002.

149. The '070 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

FIRST AMENDED COMPLAINT FOR ANTITRUST LAW VIOLATIONS,
PATENT INFRINGEMENT, AND FOR DECLARATORY RELIEF

150. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '070 Patent.

COUNT TWENTY-FOUR

NON-INFRINGEMENT OF THE '918 PATENT

151. Plaintiffs repeat and reallege the allegations in paragraphs 1-150 as though fully set forth herein.

152. Plaintiffs have not infringed, and are not infringing, the '918 Patent. A true and correct copy of the '918 Patent is attached hereto as Exhibit "L".

153. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '918 Patent by any third party.

154. Plaintiffs are licensed to the '918 Patent.

155. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '918 Patent.

COUNT TWENTY-FIVE

INVALIDITY OF THE '918 PATENT

156. Plaintiffs repeat and reallege the allegations in paragraphs 1-155 as though fully set forth herein.

157. The '918 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

158. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '918 Patent.

COUNT TWENTY-SIX

UNENFORCEABILITY OF THE '918 PATENT

159. Plaintiffs repeat and reallege the allegations in paragraphs 1-158 as though fully set forth herein.

160. The '918 Patent is unenforceable because it expired in 2000.

161. The '918 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

162. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '918 Patent.

COUNT TWENTY-SEVEN

NON-INFRINGEMENT OF THE '068 PATENT

163. Plaintiffs repeat and reallege the allegations in paragraphs 1-162 as though fully set forth herein.

164. Plaintiffs have not infringed, and are not infringing, the '068 Patent. A true and correct copy of the '068 Patent is attached hereto as Exhibit "M".

165. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '068 Patent by any third party.

166. Plaintiffs are licensed to the '068 Patent.

167. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '068 Patent.

COUNT TWENTY-EIGHT

INVALIDITY OF THE '068 PATENT

168. Plaintiffs repeat and reallege the allegations in paragraphs 1-167 as though fully set forth herein.

169. The '068 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

170. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '068 Patent.

COUNT TWENTY-NINE

UNENFORCEABILITY OF THE '068 PATENT

171. Plaintiffs repeat and reallege the allegations in paragraphs 1-170 as though fully set forth herein.

172. The '068 Patent is unenforceable because it expired in 2002.

173. The '068 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

174. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '068 Patent.

COUNT THIRTY

NON-INFRINGEMENT OF THE '432 PATENT

175. Plaintiffs repeat and reallege the allegations in paragraphs 1-174 as though fully set forth herein.

176. Plaintiffs have not infringed, and are not infringing, the '432 Patent. A true and correct copy of the '432 Patent is attached hereto as "N".

177. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '432 Patent by any third party.

178. Plaintiffs are licensed to the '432 Patent.

179. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '432 Patent.

COUNT THIRTY-ONE

INVALIDITY OF THE '432 PATENT

180. Plaintiffs repeat and reallege the allegations in paragraphs 1-179 as though fully set forth herein.

181. The '432 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

182. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '432 Patent.

COUNT THIRTY-TWO

UNENFORCEABILITY OF THE '432 PATENT

183. Plaintiffs repeat and reallege the allegations in paragraphs 1-182 as though fully set forth herein.

184. The '432 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

185. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '432 Patent.

COUNT THIRTY-THREE

NON-INFRINGEMENT OF THE '996 PATENT

186. Plaintiffs repeat and reallege the allegations in paragraphs 1-185 as though fully set forth herein.

187. Plaintiffs have not infringed, and are not infringing, the '996 Patent. A true and correct copy of the '996 Patent is attached hereto as Exhibit "O".

188. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '996 Patent by any third party.

189. Plaintiffs are licensed to the '996 Patent.

190. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '996 Patent.

COUNT THIRTY-FOUR

INVALIDITY OF THE '996 PATENT

191. Plaintiffs repeat and reallege the allegations in paragraphs 1-190 as though fully set forth herein.

192. The '996 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

193. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '996 Patent.

COUNT THIRTY-FIVE

UNENFORCEABILITY OF THE '996 PATENT

194. Plaintiffs repeat and reallege the allegations in paragraphs 1-193 as though fully set forth herein.

195. The '996 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

196. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '996 Patent.

COUNT THIRTY-SIX

NON-INFRINGEMENT OF THE '273 PATENT

197. Plaintiffs repeat and reallege the allegations in paragraphs 1-196 as though fully set forth herein.

198. Plaintiffs have not infringed, and are not infringing, the '273 Patent. A true and correct copy of the '273 Patent is attached hereto as Exhibit "P".

199. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '273 Patent by any third party.

200. Plaintiffs are licensed to the '273 Patent.

201. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '273 Patent.

COUNT THIRTY-SEVEN

INVALIDITY OF THE '273 PATENT

202. Plaintiffs repeat and reallege the allegations in paragraphs 1-201 as though fully set forth herein.

203. The '273 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

204. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '273 Patent.

COUNT THIRTY-EIGHT

UNENFORCEABILITY OF THE '273 PATENT

205. Plaintiffs repeat and reallege the allegations in paragraphs 1-204 as though fully set forth herein.

206. The '273 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

207. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '273 Patent.

COUNT THIRTY-NINE

NON-INFRINGEMENT OF THE '989 PATENT

208. Plaintiffs repeat and reallege the allegations in paragraphs 1-207 as though fully set forth herein.

209. Plaintiffs have not infringed, and are not infringing, the '989 Patent. A true and correct copy of the '989 Patent is attached hereto as Exhibit "Q".

210. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '989 Patent by any third party.

211. Plaintiffs are licensed to the '989 Patent.

212. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '989 Patent.

COUNT FORTY

INVALIDITY OF THE '989 PATENT

213. Plaintiffs repeat and reallege the allegations in paragraphs 1-212 as though fully set forth herein.

214. The '989 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

215. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '989 Patent.

COUNT FORTY-ONE

UNENFORCEABILITY OF THE '989 PATENT

216. Plaintiffs repeat and reallege the allegations in paragraphs 1-215 as though fully set forth herein.

217. The '989 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

218. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '989 Patent.

COUNT FORTY-TWO

NON-INFRINGEMENT OF THE '428 PATENT

219. Plaintiffs repeat and reallege the allegations in paragraphs 1-218 as though fully set forth herein.

FIRST AMENDED COMPLAINT FOR ANTITRUST LAW VIOLATIONS,
PATENT INFRINGEMENT, AND FOR DECLARATORY RELIEF

220. Plaintiffs have not infringed, and are not infringing, the '428 Patent. A true and correct copy of the '428 Patent is attached hereto as Exhibit "R".

221. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '428 Patent by any third party.

222. Plaintiffs are licensed to the '428 Patent.

223. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '428 Patent.

COUNT FORTY-THREE

INVALIDITY OF THE '428 PATENT

224. Plaintiffs repeat and reallege the allegations in paragraphs 1-223 as though fully set forth herein.

225. The '428 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

226. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '428 Patent.

COUNT FORTY-FOUR

UNENFORCEABILITY OF THE '428 PATENT

227. Plaintiffs repeat and reallege the allegations in paragraphs 1-226 as though fully set forth herein.

228. The '428 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

229. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '428 Patent.

COUNT FORTY-FIVE

NON-INFRINGEMENT OF THE '819 PATENT

230. Plaintiffs repeat and reallege the allegations in paragraphs 1-229 as though fully set forth herein.

231. Plaintiffs have not infringed, and are not infringing, the '819 Patent. A copy of the '819 Patent is attached hereto as Exhibit "S".

232. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '819 Patent by any third party.

233. Plaintiffs are licensed to the '819 Patent.

234. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '819 Patent.

COUNT FORTY-SIX

INVALIDITY OF THE '819 PATENT

235. Plaintiffs repeat and reallege the allegations in paragraphs 1-234 as though fully set forth herein.

236. The '819 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

237. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '819 Patent.

COUNT FORTY-SEVEN

UNENFORCEABILITY OF THE '819 PATENT

238. Plaintiffs repeat and reallege the allegations in paragraphs 1-237 as though fully set forth herein.

239. The '819 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

240. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '819 Patent.

241. Plaintiffs' claims and causes of action against Defendants constitute an extraordinary case under 35 U.S.C. 285 entitling Plaintiffs to reasonable attorneys' fees.

COUNT FORTY-EIGHT

NON-INFRINGEMENT OF THE '486 PATENT

242. Plaintiffs repeat and reallege the allegations in paragraphs 1-241 as though fully set forth herein.

243. Plaintiffs have not infringed, and are not infringing, the '486 Patent. A copy of the '486 Patent is attached hereto as Exhibit "T".

FIRST AMENDED COMPLAINT FOR ANTITRUST LAW VIOLATIONS,
PATENT INFRINGEMENT, AND FOR DECLARATORY RELIEF

244. Plaintiffs have not contributed to, are not contributing to, have not induced, and are not inducing the infringement of the '486 Patent by any third party.

245. Plaintiffs are licensed to the '486 Patent.

246. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the non-infringement of the '486 Patent.

COUNT FORTY-NINE

INVALIDITY OF THE '486 PATENT

247. Plaintiffs repeat and reallege the allegations in paragraphs 1-246 as though fully set forth herein.

248. The '486 Patent is invalid for failing to satisfy the conditions for patentability set forth in Part II of Title 35 of the United States Code, including but not limited to sections 102, 103, and/or 112.

249. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the invalidity of the '486 Patent.

COUNT FIFTY

UNENFORCEABILITY OF THE '486 PATENT

250. Plaintiffs repeat and reallege the allegations in paragraphs 1-249 as though fully set forth herein.

251. The '486 Patent is unenforceable for failing to satisfy the conditions of enforceability required in law and equity.

252. Therefore, there has been and is now an actual controversy between Plaintiffs and Defendants as to the unenforceability of the '486 Patent.

253. Plaintiffs' claims and causes of action against Defendants constitute an extraordinary case under 35 U.S.C. 285 entitling Plaintiffs to reasonable attorneys' fees.

VII.

PRAYER FOR RELIEF

254. Plaintiffs respectfully request that judgment be entered in their favor and against Fujitsu Ltd. and Fujitsu America, and that the Court grant the following relief to Plaintiffs:

- A. Render a declaratory judgment that Plaintiffs do not infringe any claim of the U.S. Patent Nos. 4,641,166; 4,458,336; 5,688,712; 5,841,731; 4,692,689; 4,527,070; 4,384,918; 4,539,068; 5,397,432; 5,227,996; 5,339,273; 4,801,989; 6,292,428; and 6,320,819;
- B. Render a declaratory judgment that the claims of the U.S. Patent Nos. 4,641,166; 4,458,336; 5,688,712; 5,841,731; 4,692,689; 4,527,070; 4,384,918; 4,539,068; 5,397,432; 5,227,996; 5,339,273; 4,801,989; 6,292,428; and 6,320,819 are invalid;
- C. Declare the Defendants' United States patents identified above unenforceable due to inequitable conduct and/or misuse;
- D. Declare this to be an exceptional case under 35 U.S.C. § 285;

- E. Declare that the United States Patent Nos. 6,790,765, 6,225,187, and 6,426,271 are valid and enforceable;
- F. Declare that Defendants have infringed United States Patent Nos. 6,790,765, 6,225,187, and 6,426,271;
- G. Award damages to Plaintiff NTC to which it is entitled for patent infringement;
- H. Enter a preliminary and thereafter a permanent injunction against Defendants' direct infringement of the United States Patent Nos. 6,790,765, 6,225,187, and 6,426,271;
- I. Enter a preliminary and thereafter a permanent injunction against Defendants' active inducements of infringement and/or contributory infringements of the United States Patent Nos. 6,790,765, 6,225,187, and 6,426,271 by others;
- J. Award to Plaintiffs treble damages and reasonable attorneys' fees incurred in asserting its antitrust claims;
- K. Award to Plaintiffs damages, expenses, and costs and attorneys' fees incurred by Plaintiffs;
- L. Enjoining Defendants from seeking to enforce any United States patents against Plaintiffs in any venue or forum;
- M. Declare Defendants are barred by laches and any damages recoverable by Defendants limited by 35 U.S.C. §§ 286 and 287; and

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N. Such other and further relief as this Court deems just and proper.

VIII.

JURY DEMAND

In accordance with Fed. R. Civ. P. 38 and 39, Plaintiffs asserts their rights under the Seventh Amendment of the United States Constitution and demand a trial by jury on all issues.

DATED at Hagåtña, Guam, on November 17, 2006.

TEKER TORRES & TEKER, P.C.

By


JOSEPH C. RAZZANO, ESQ.

UNPINGCO & ASSOCIATES, LLC

By


GEORGETTE B. CONCEPCION, ESQ.

FIRST AMENDED COMPLAINT FOR ANTITRUST LAW VIOLATIONS,
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